

REMARKS

After entry of this Amendment, claims 1, 5, 9, 51 and 59 will be pending in this application.

Claims 1, 5, 9, 51 and 59 have been amended to refer to an “antigen presenting dendritic cell.” Support for this amendment can be found at page 1, lines 14-20. Claims 1, 5, 9, 51 and 59 have also been amended to recite “a statistically significant increase or decrease in the expression.” Support for this amendment can be found throughout the specification, e.g., at page 16, lines 13-15 and pages 24-27. This Amendment does not add any new matter to the application.

Rejection Under 35 U.S.C. § 112, ¶ 2

The Examiner has rejected claims 1, 5, 9, 51 and 59 under 35 U.S.C. § 112, ¶ 2 as indefinite. The Examiner alleges that the phrases “wherein increased or decreased expression [...] aids in the identification of the infecting pathogen” or “wherein increased or decreased expression [...] aids in diagnosis of infection by the pathogen” are vague and indefinite because “[i]t is unclear what degree of increased or decreased expression is required for such aiding as one skilled in the art would realize that some variation is likely due to experimental variation or background noise.”

Applicants respectfully traverse. However, in order to expedite the prosecution of the instant application, Applicants have amended the claims to recite “wherein a statistically significant increase or decrease in the expression [...] aids in the identification of the infecting pathogen” or “wherein a statistically significant increase or decrease in the expression [...] aids in the diagnosis of infection by the pathogen.”

Applicants respectfully submit that a person of skill in the art would be able to determine the metes and bounds of the claimed invention. Particularly, a person of skill in the art would be able to determine, without any undue experimentation, whether or not there is a statistically significant difference between two expression levels. Thus, the claims meet the definiteness requirement. *See, e.g., Exxon Research and Engineering Co. v. United States*, 60 USPQ2d 1271 (Fed. Cir. 2001) (citations omitted) (“Provided that the claims are enabled and no undue experimentation is required, the fact that some experimentation is required does not render the claims indefiniteness.”).

Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw this rejection.